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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 191125-0089]

RIN 0648-BJ22

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Biennial Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Through this final rule, NMFS is implementing allowable catch levels, an overfishing limit, an allowable biological catch, and an annual catch limit for Pacific mackerel in the U.S. exclusive economic zone off the West Coast (California, Oregon and Washington) for the fishing seasons 2019-2020 and 2020-2021, pursuant to the Coastal Pelagic Species Fishery Management Plan. The harvest guideline and annual catch target for the 2019-2020 fishing season are 11,109 metric tons (mt) and 10,109 mt, respectively. The harvest guideline and annual catch target for the 2020-2021 fishing season are 7,950 mt and 6,950 mt, respectively. If the fishery attains the annual catch target in either fishing season, the directed fishery will close, reserving the 1,000-mt difference between the harvest guideline and annual catch target as a set-aside for incidental landings in other Coastal Pelagic Species fisheries and other sources of

mortality. This rule is intended to conserve and manage the Pacific mackerel stock off the U.S. West Coast.

DATES: Effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the report, “Pacific Mackerel Stock Assessment for U.S. Management in 2019-2020 and 2020-2021” may be obtained from the Long Beach NMFS office or viewed at the following website:

https://www.pcouncil.org/wpcontent/uploads/2019/05/F3_Att1_Mackerel_Stock-Assessment_Full_Electric_Only_Jun2019BB.pdf.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, *Lynn.Massey@noaa.gov*.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, NMFS manages the Pacific mackerel fishery in the U.S. exclusive economic zone (EEZ) off the West Coast in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The CPS FMP and its implementing regulations require NMFS to set annual harvest specifications for the Pacific mackerel fishery based on the annual specification framework and control rules in the FMP. The control rules in the CPS FMP include the harvest guideline (HG) control rule, which in conjunction with the overfishing limit (OFL) and acceptable biological catch (ABC) rules, are used to manage harvest levels for Pacific mackerel. According to the FMP, the quota for the principal commercial fishery, the HG, is determined using the FMP-specified HG formula. The HG is based, in large part, on the current estimate of stock biomass. The biomass

estimate is an explicit part of the various harvest control rules for Pacific mackerel, and as the estimated biomass decreases or increases from one year to the next, the resulting allowable catch levels similarly trend. More information on the Pacific Fishery Management Council's (Council) process for developing Pacific mackerel harvest specifications and more detail on the HG control rule are provided in the proposed rule for this action (August 23, 2019, 84 FR 44272) and are not repeated here.

The purpose of this final rule is to implement these harvest specifications, which include allowable harvest levels (*i.e.*, annual catch target (ACT) and HG), an annual catch limit (ACL), and annual catch reference points (*i.e.*, OFL and ABC). The uncertainty surrounding the current biomass estimates for Pacific mackerel for the 2019-2020 and 2020-2021 fishing seasons was taken into consideration in the development of these harvest specifications. The Pacific mackerel fishing season runs from July 1 to June 30. Any Pacific mackerel harvested between July 1, 2019, and the effective date of the final rule would count toward the 2019-2020 ACT and HG.

The Council has recommended, and NMFS is implementing, Pacific mackerel harvest specifications for both the 2019-2020 and 2020-2021 fishing seasons. For the 2019-2020 Pacific mackerel fishing season these include an OFL of 14,931 mt, an ABC and ACL of 13,169 mt, a HG of 11,109 mt, and an annual ACT of 10,109 mt. For the 2020-2021 Pacific mackerel fishing season these include an OFL of 11,772 mt, and ABC and ACL of 10,289 mt, a HG of 7,950 mt, and an ACT of 6,950 mt. These catch specifications are based on the control rules established in the CPS FMP and biomass estimates of 71,099 mt (2019-2020) and 56,058 mt (2020-2021). The biomass estimates are the result of a full stock assessment the NMFS SWFSC completed in June 2019 (see

ADDRESSES). The Council's SSC and the Council approved this stock assessment as the best scientific information available for management at the June 2019 Council meeting.

Under this action, in the unlikely event that catch reaches the ACT in either fishing season, directed fishing would close, reserving the difference between the HG and ACT (1,000 mt) as a set-aside for incidental landings in other fisheries and other sources of mortality.¹ For the remainder of the fishing season, incidental landings in CPS fisheries would be constrained to a 45-percent incidental catch allowance (in other words, no more than 45 percent by weight of the CPS landed per trip may be Pacific mackerel); in non-CPS fisheries, up to 3 mt of Pacific mackerel may be landed incidentally per fishing trip. The incidental set-aside is intended to allow continued operation of fisheries for other stocks, particularly other CPS stocks that may school with Pacific mackerel.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of any closure of directed fishing (when harvest levels reach or exceed the ACT). Additionally, to ensure the regulated community is informed of any closure, NMFS will also make announcements through other means available, including email to fishermen, processors, and state fishery management agencies.

On August 23, 2019, NMFS published a proposed rule in the **Federal Register** (84 FR 44272) soliciting public comments through September 23, 2019. NMFS received two comments from private citizens in support of the proposed rule. This final rule contains no changes from the proposed rule.

¹ Directed fishing for live bait and minor directed fishing is allowed to continue during a closure of the directed fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this final rule is not significant.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 25, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660 -- FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.511, add paragraphs (i) and (j) to read as follows:

§ 660.511 Catch restrictions.

* * * * *

- (i) The following harvest specifications apply for Pacific mackerel:

- (1) For the Pacific mackerel fishing season July 1, 2019, through June 30, 2020, the harvest guideline is 11,109 mt and the ACT is 10,109 mt; and

- (2) For the Pacific mackerel fishing season July 1, 2020, through June 30, 2021, the harvest guideline is 7,950 mt and the ACT of 6,950 mt.

- (j) When an ACT in paragraph (i) of this section has been reached or exceeded, then for the remainder of the Pacific mackerel fishing season, Pacific mackerel may not be targeted and landings of Pacific mackerel may not exceed: 45 percent of landings when Pacific mackerel are landed in CPS fisheries (in other words, no more than 45 percent by weight of the CPS landed per trip may be Pacific mackerel), or up to 3 mt of Pacific mackerel when landed in non-CPS fisheries. The Regional Administer shall announce in the **Federal Register** the date that an ACT is reached or exceeded, and the date and time that the restrictions described in this paragraph go into effect.

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